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76041 7590 12/14/2011 YAHOO! INC. C/O Ostrow Kaufman LLP 555 Fifth Avenue 19th Floor NEW YORK, NY 10017				
EXAMINER				
HENRY, RODNEY M				
ART UNIT		PAPER NUMBER		
3682				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sformicola@okflp.com

**Office Action Summary****Application No.**

10/783,383

**Applicant(s)**

ZITO ET AL.

**Examiner**

RODNEY HENRY

**Art Unit**

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 October 2011.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on \_\_\_\_; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 5) ☒ Claim(s) 1-43 is/are pending in the application.
- 5a) Of the above claim(s) 4, 8-10, 13, 21-22, 24, 26, 30 is/are withdrawn from consideration.
- 6) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 7) ☒ Claim(s) 1-3, 5, 7, 11, 12, 14-20, 23, 25, 27-29 and 31-43 is/are rejected.
- 8) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 9) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-505)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_
- 6) ☐ Other: \_\_\_\_

### **DETAILED ACTION**

1. The following is a final office action on the merits. The Examiner acknowledges communication from the Applicant dated 10/5/2011, in which claims 1, 5, 33, and 43 were amended. Therefore claims 1-3, 5-7, 11, 12, 14-20, 23, 25, 27-29, and 31-43 are pending and are considered below.

### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1, 2, 5-7, 11, 12, 14, 15, 29, 31, 33, and 35-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 20040230676), in view of Patel, Dorab et al. (Patel) (US 20040103024).**

As per Claim 1:

Kida et al. discloses in a networked computer system, a computerized method for facilitating a transaction between at least an advertiser and an advertisee for arranging for presentation of an advertisement to at least one user of a computerized device, the method comprising:

obtaining, at an offer exchange server, an advertiser offer from an advertiser for placing an advertisement in at least one web page associated with an advertisee, the advertiser offer comprising conditions including a first set of one or more user context conditions

(specification paragraph 27 "Offer conditions and obtained user context information can include multiple parameters or dimensions relating to various conditions including user characteristics or historical behavioral information about a user, pricing terms, content-related terms, temporal terms, media-related terms, and other types of terms. Furthermore, dimensions can be specified with varying degrees of resolution, which can allow more or less narrow targeting of users")

required by the advertiser for presentation of the advertisement to the user in the at least one web page;

(see Kida paragraph [0106] Distribution conditions (D105) is the field where the advertiser

describes, as a set of conditions, the sort of user he wants to distribute the advertisement to. In this first embodiment, the advertiser inputs the following items: [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105.

see also 274, 275.

See also Kida paragraph For web page via URL [0082] When an advertiser has registered an account, that advertiser is sent notification of a URL for accessing advertisement input means 105...).

Kida et al. does not explicitly disclose

- [1] obtaining, at the offer exchange server, an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising conditions including a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page;
- [2] obtaining, at the offer exchange server, user context information that indicates the context of substantially real-time activities of the user in relation to the advertisee;
- [3] electronically, determining, via a processing device, a match of the advertiser offer, with the advertisee offer, and with the user context information;
- and
- [4] electronically, via the processing device, arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information.

However Patel discloses

- [1] obtaining, at the offer exchange server, an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising conditions including a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page;

(see Patel paragraph 58 for advertiser/advertiser offer and user context via "a dynamic real-time automated exchange for buying, selling and trafficking commoditized media while providing real time performance reporting and buyer /seller optimization modules. Once a contract between an advertiser and a publisher is established (matching of offers), the system and method of the present invention automates the advertiser-publisher relationship by trafficking media (such as serving ad banners), tracking related activities (such as sales, leads generated or click-through), providing media or inventory performance feedback, monitoring and detection of fraud as well as the collection and distribution of commissions. This aspect also describes a web-based, business-to-business, e-commerce infomediary for the Internet advertising market").

(see Patel paragraph 13 for user context conditions regarding ads via "The price a publisher can charge is affected by the perceived effectiveness of the advertising. For example, publishers can say that their audience includes some number of people with some specified characteristics. These people are assumed to be likely to buy the particular product being advertised. Advertisers currently predict the effectiveness of the advertising using historical data, test marketing, and guess-work. This is then used to predict return-on-investment (ROI) and to negotiate terms with a publisher").

[2] obtaining, at the offer exchange server, user context information that indicates the context of substantially real-time activities of the user in relation to the advertisee;

(see Patel paragraph 47 for real time activities

via "The exchange allows the affiliate relationship to be dynamic, and hence responsive to changing conditions in real-time. ... Moreover, because the prices being paid are determined by supply and demand, the commission is not fixed and reflects the fair market value of the relationship ", since the system is real-time it takes into account real time demand of users so that the compensation plan is dynamic as well).

[3] electronically, determining, via a processing device, a match of the advertiser offer, with the advertisee offer, and with the user context information;  
and

[4] electronically, via the processing device, arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information.

(see Patel paragraph 58 for matching advertiser/advertisee offers via

"a dynamic real-time automated exchange for buying, selling and trafficking commoditized media while providing real time performance reporting and buyer /seller optimization modules. Once a contract between an advertiser and a publisher is established (matching of offers), the system and method of the present invention

automates the advertiser-publisher relationship by trafficking media (such as serving ad banners)").

(see Patel paragraph 13 for user context conditions via

"The price a publisher can charge is affected by the perceived effectiveness of the advertising. For example, publishers can say that their audience includes some number of people with some specified characteristics. These people are assumed to be likely to buy the particular product being advertised. Advertisers currently predict the effectiveness of the advertising using historical data, test marketing, and guess-work. This is then used to predict return-on-investment (ROI) and to negotiate terms with a publisher").

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add [1] obtaining, at the offer exchange server, an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising conditions including a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page;

[2] obtaining, at the offer exchange server, user context information that indicates the context of substantially real-time activities of the user in relation to the advertisee;



[3] electronically, determining, via a processing device, a match of the advertiser offer, with the advertisee offer, and with the user context information;  
and

[4] electronically, via the processing device, arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information. to the system of Kida et al.. One would have been motivated to do this in order to manage a robust advertiser/advertise system.

As per Claim 2:

Kida et. al. discloses a temporal dimension relating to a time of day for presenting the advertisement in the at least one web page

Kida FIG. 13 shows schedule and ads to be presented based on context. Kida paragraph 19 also discusses the invention provides more effective advertising, and from the user's point of view it presents advertisements that are related to his own schedule (construed to be based on time of day and time of day appropriate for a user).

Kida does not explicitly disclose obtaining a multi- dimensional advertiser offer and a multi-dimensional advertisee offer and a respective one of price an advertiser is willing to pay and a price an advertisee is willing to accept to present the advertisement in the at least one web page.

However Patel discloses obtaining a multi-dimensional advertiser offer and a multi-dimensional advertisee offer and a respective one of price an advertiser is willing to pay and a price an advertisee is willing to accept to present the advertisement in the at least one web page.

Patel FIG. 12 illustrates several advertising negotiation and payment models.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add obtaining a multi-dimensional advertiser offer and a multi-dimensional advertisee offer and a respective one of price an advertiser is willing to pay and a price an advertisee is willing to accept to present the advertisement in the at least one web page to the system of Kida et al.. One would have been motivated to do this in order to ensure all parties are adequately served

As per Claim 5:

Kida et. al. discloses a system for facilitating a transaction between at least an advertiser and an advertisee for arranging for presentation of an advertisement to at least one user of a computerized device, the system comprising:

one or more offer exchange server computers connected to a network;

(see Kida FIG. 1 servers):

one or more offer exchange databases connected to the network and accessible by the one or more offer exchange server computers, the one or more offer exchange databases storing information comprising:

an advertiser offer from an advertiser for placing an advertisement in at least one web page associated with an advertisee, the advertiser offer comprising conditions

including a first set of one or more user context conditions required by the advertiser for presentation of the advertisement to the user in the at least one web page;

an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising conditions including a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page;;

(see Kida FIG. 1 (servers) and paragraph [0106] Distribution conditions (D105) is the field where the advertiser describes, as a set of conditions, the sort of user he wants to distribute the advertisement to. In this first embodiment, the advertiser inputs the following items: [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105. see also 274, 275. See also Kida paragraph For web page via URL [0082] When an advertiser has registered an account, that advertiser is sent notification of a URL for accessing advertisement input means 105...).

user context information that indicates the context of the activities of the user in relation to the advertisee;

(see Kida FIG. 13 (user schedule and ad schedule match up)).

Kids does not explicitly disclose

[1] user context information that indicates the context of the substantially real- time activities of the user in relation to the advertisee;

wherein the one or more offer exchange server computers:

[2] determine a match of the advertiser offer with the advertisee offer and with the user context information;

and

[3] facilitate arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information.

However Patel discloses

[1] user context information that indicates the context of the substantially real- time activities of the user in relation to the advertisee;

(see Patel paragraph 47 for real time activities

via "The exchange allows the affiliate relationship to be dynamic, and hence responsive to changing conditions in real-time. ... Moreover, because the prices being paid are determined by supply and demand, the commission is not fixed and reflects the fair market value of the relationship ", since the system is real-time it takes into account real time demand of users so that the compensation plan is dynamic as well).

wherein the one or more offer exchange server computers:

[2] determine a match of the advertiser offer with the advertisee offer and with the user context information;

and

[3] facilitate arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information.

(see Patel paragraph 58 for matching advertiser/advertisee offers via  
“a dynamic real-time automated exchange for buying, selling and trafficking  
commoditized media while providing real time performance reporting and buyer  
/seller optimization modules. Once a contract between an advertiser and a publisher  
is established (matching of offers), the system and method of the present invention  
automates the advertiser-publisher relationship by trafficking media (such as serving  
ad banners)”).

(see Patel paragraph 13 for user context conditions via  
“The price a publisher can charge is affected by the perceived effectiveness of the  
advertising. For example, publishers can say that their audience includes some  
number of people with some specified characteristics. These people are assumed to  
be likely to buy the particular product being advertised. Advertisers currently predict  
the effectiveness of the advertising using historical data, test marketing, and guess-  
work. This is then used to predict return-on-investment (ROI) and to negotiate terms  
with a publisher”).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add [1] user context information that indicates the context of the substantially real- time activities of the user in relation to the advertisee;

wherein the one or more offer exchange server computers:

[2] determine a match of the advertiser offer with the advertisee offer and with the user context information;

and

[3] facilitate arranging for presentation of the advertisement to the user based on the match indicating the advertiser offer conditions matches the advertisee offer conditions and the user context information to the system of Kida et al.. One would have been motivated to do this in order to manage a robust advertiser/advertise system.

As per Claim 7:

Kida et. al. does not explicitly disclose the system facilitates a plurality of transactions between advertisers and advertisees, and wherein the database contains a plurality of advertiser offers, a plurality of advertisee offers, and information regarding a plurality of computer user contexts

However, Schuster discloses

the system facilitates a plurality of transactions between advertisers and advertisees, and wherein the database contains a plurality of advertiser offers, a

plurality of advertisee offers, and information regarding a plurality of computer user contexts

(see claim 1 Schuster response and FIG 2. (ad database)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the system facilitates a plurality of transactions between advertisers and advertisees, and wherein the database contains a plurality of advertiser offers, a plurality of advertisee offers, and information regarding a plurality of computer user contexts to the system of Kida et al.. One would have been motivated to do this in order to store the matches made for follow up.

As per Claim 11:

Kida et. al. does not explicitly disclose the one or more offer exchange servers are marketplace operator servers, and wherein the advertisee is an affiliate of a marketplace operator.

However Patel et al. discloses the one or more offer exchange servers are marketplace operator servers, and wherein the advertisee is an affiliate of a marketplace operator (see paragraph [0158]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the one or more offer exchange servers are marketplace operator servers, and wherein the advertisee is an affiliate of a marketplace operator to the system of Kida et. al.. One would have been motivated to do this in order to manage click impressions.

As per Claim 12:

Kida et. al. does not explicitly disclose the marketplace operator obtains a fee from at least one of the advertiser and the advertisee in connection with facilitating the transaction.

However Patel et al. discloses the marketplace operator obtains a fee from at least one of the advertiser and the advertisee in connection with facilitating the transaction (see paragraph [0720]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the marketplace operator obtains a fee from at least one of the advertiser and the advertisee in connection with facilitating the transaction to the system of Kida et. al.. One would have been motivated to do this in order to compensate facilitators.

As per Claim 14:

Kida et. al. discloses the offers each comprise one or more dimensions (see Kida paragraph [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105).

As per Claim 15:

Kida et. al. discloses the one or more dimensions comprise resolutions (see Kida paragraph [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105).



As per Claim 25:

Kida et. al. does not explicitly disclose selected proposed pre-defined offers can be at least one of modified and at least partially configured.

However Patel et al. discloses selected proposed pre-defined offers can be at least one of modified and at least partially configured (see paragraph [0114] Advertisers monitor 411 an aggregated view of the responses from publishers. Based on the feedback, they can dynamically adjust the offer. For instance, they can modify their creative or change the incentives).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add selected proposed pre-defined offers can be at least one of modified and at least partially configured to the system of Kida et. al.. One would have been motivated to do this in order to ensure offer acceptance.

As per Claim 27:

Kida et. al. does not explicitly disclose the marketplace operator provides virtual marketplaces in multi-dimensional offers.

However Patel et al. discloses the marketplace operator provides virtual marketplaces in multi-dimensional offers (see paragraph [0687] Advertising Network: A group of Web sites which share a common banner server. Typically a sales organization which manages the commerce and reporting. An ad network has the ability to deliver unique combinations of targeted audiences because they serve your banner or ad across multiple sites).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the marketplace operator provides virtual marketplaces in multi-dimensional offers to the system of Kida et. al.. One would have been motivated to do this in order to deliver unique combinations to several audiences.

As per Claim 29:

Kida et. al. discloses the offer exchange server comprises an offer exchange engine, and wherein the offer exchange engine comprises programming comprising a plurality of virtual offer exchange machines including at least one of an offer management machine, an offer resolution control machine, and offer retrieval machine, and offer sorting machine, an offer campaign machine, and an offer distribution machine (see Kida paragraph [0189] "Advertisement events": these are advertisements that an advertiser has registered and that the system has distributed to users after taking into consideration advertisement distribution conditions and user preferences).

As per Claim 31:

Kida et. al. does not explicitly disclose generating the pre-defined offers, and wherein at least one of matching, generating pre-defined offers, and comprising directing pre-defined offers utilizing at least one of one of a data mining program and an artificial intelligence program.

However Patel et al. discloses generating the pre-defined offers, and wherein at least one of matching, generating pre-defined offers, and comprising directing pre-defined offers utilizing at least one of one of a data mining program and an artificial

intelligence program (see Patel paragraph [0197] The reporting system 394 uses the collected information for data mining. This process computes useful statistics (e.g. conversion ratios, effective cost per event, activity) over various views of the system (e.g. advertisers, publishers, areas, offers).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add generating the pre-defined offers, and wherein at least one of matching, generating pre-defined offers, and comprising directing pre-defined offers utilizing at least one of one of a data mining program and an artificial intelligence program to the system of Kida et. al.. One would have been motivated to do this in order to compute useful user data.

As per Claim 33:

Kida et. al. discloses a computer usable medium or media storing program code which, when executed on one or more computerized devices, causes the computerized devices to execute a computerized method for facilitating a transaction between at least an advertiser and an advertisee for arranging for presentation of an advertisement to at least one user of a computerized media outlet of the advertisee, the method comprising:

one or more offer exchange server computers connected to a network;

(see Kida FIG. 1 servers):

obtaining, at an offer exchange server, an advertiser offer from an advertiser for placing an advertisement in at least one web page associated with an advertisee, the advertiser offer comprising a first set of one or more user context conditions required by the

advertiser for presentation of the advertisement to the user in the at least one web page;

obtaining, at the offer exchange server, an advertisee offer from the advertisee for placing the advertisement in the at least one web page associated with the advertisee, the advertisee offer comprising a second set of one or more user context conditions required by the advertisee for presentation of the advertisement to the user in the at least one web page;

(see Kida FIG. 1 (servers) and paragraph [0106] Distribution conditions (D105) is the field where the advertiser describes, as a set of conditions, the sort of user he wants to distribute the advertisement to. In this first embodiment, the advertiser inputs the following items: [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105. see also 274, 275. See also Kida paragraph For web page via URL [0082] When an advertiser has registered an account, that advertiser is sent notification of a URL for accessing advertisement input means 105...).

user context information that indicates the context of the activities of the user in relation to the advertisee;

(see Kida FIG. 13 (user schedule and ad schedule match up)).

Kids does not explicitly disclose  
obtaining, at the offer exchange server, user context information that indicates the context of the substantially real-time activities of the user in relation to the advertisee;

determining whether the user context information satisfies the first and second sets of user context conditions; and

facilitating arranging for presentation of the advertisement to the user on a real- time basis based on the user context information satisfaction of the first and second sets of conditions and a match of the first set of conditions with the second set of conditions.

However Patel discloses

obtaining, at the offer exchange server, user context information that indicates the context of the substantially real-time activities of the user in relation to the advertisee; determining whether the user context information satisfies the first and second sets of user context conditions;

(see Patel paragraph 47 for real time activities

via "The exchange allows the affiliate relationship to be dynamic, and hence responsive to changing conditions in real-time. ... Moreover, because the prices being paid are determined by supply and demand, the commission is not fixed and reflects the fair market value of the relationship ", since the system is real-time it takes into account real time demand of users so that the compensation plan is dynamic as well).

facilitating arranging for presentation of the advertisement to the user on a real- time basis based on the user context information satisfaction of the first and second sets of conditions and a match of the first set of conditions with the second set of conditions.

(see Patel paragraph 58 for matching advertiser/advertisee offers via

"a dynamic real-time automated exchange for buying, selling and trafficking commoditized media while providing real time performance reporting and buyer /seller optimization modules. Once a contract between an advertiser and a publisher is established (matching of offers), the system and method of the present invention automates the advertiser-publisher relationship by trafficking media (such as serving ad banners)").

(see Patel paragraph 13 for user context conditions via

"The price a publisher can charge is affected by the perceived effectiveness of the advertising. For example, publishers can say that their audience includes some number of people with some specified characteristics. These people are assumed to be likely to buy the particular product being advertised. Advertisers currently predict the effectiveness of the advertising using historical data, test marketing, and guess-work. This is then used to predict return-on-investment (ROI) and to negotiate terms with a publisher").

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add obtaining, at the offer exchange server, user context information that indicates the context of the substantially real-time activities of the user in relation to the advertisee;

determining whether the user context information satisfies the first and second sets of user context conditions; and

facilitating arranging for presentation of the advertisement to the user on a real-time basis based on the user context information satisfaction of the first and second sets of conditions and a match of the first set of conditions with the second set of conditions to the system of Kida et al.. One would have been motivated to do this in order to manage a robust advertiser/advertise system.

As per Claim 35:

Kida et. al. discloses the advertisement facilitates sale of a product, a service, or content (see paragraph 0069 services for advertisers).

As per Claim 36:

Kida et. al. discloses the computerized device is selected from a group including a desktop computer, a notebook computer, a wireless computerized device, a portable computerized device, and a handheld computerized device (see FIG. 1...user client machine).

As per Claim 37:

Kida et. al. does not explicitly disclose determining whether a match exists comprises performing probabilistic matching.

However Patel et al. discloses determining whether a match exists comprises performing probabilistic matching (see Patel paragraph [0208] Feedback from advertising performance and automated yield management dynamically uses a process similar to natural selection to terminate offers that are underperforming. The matching and filtering technologies include techniques and software to increase the likelihood of an effective match).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add determining whether a match exists comprises performing probabilistic matching to the system of Kida et. al.. One would have been motivated to do this in order to ensure matches are more accurate.

As per Claim 38:

Kida et. al. does not explicitly disclose application of catalyzers to offers to facilitate effective offer matching.

However Patel et al. discloses application of catalyzers to offers to facilitate effective offer matching (see Patel paragraph [0117] Advertisers can also moderate the amount they are willing to offer as compensation to publishers depending on their own production inventory levels. For example, an advertiser with excess production capacity or aging inventory may decide to increase the incentive for compensation (thereby increasing the cost of goods sold and lowering margins) to publishers to increase the reach to accelerate sales. Conversely, advertisers having difficulty keeping up with demand may elect to reduce incentives on offers to publishers in order to reduce reach and corresponding sales volume).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add application of catalyzers to offers to facilitate effective offer matching to the system of Kida et. al.. One would have been motivated to do this in order to effectively manage campaigns.



As per Claim 39:

Kida et al. discloses the one or more dimensions comprise resolutions or (see Kida paragraph [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105).

As per Claim 40:

Kida et. al. does not explicitly disclose selected pre-defined offers can be partially configured by choosing at least one desired resolution of a dimension (time age distance, etc. (see Kida paragraph [0273] Condition 1: the user matches the distribution conditions (age, gender, etc.) for advertisements that the advertiser has input using advertisement input means 105).

**4. Claims 6, and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 20040230676), in view of Patel, Dorab et al. (Patel) (US 20040103024), and further in view of Shuster et al. (US 20020022999.**

As per Claim 6:

Kida et. al. does not explicitly disclose the one or more offer exchange server computers obtain, and cause to be stored in the offer exchange database, the advertiser offer, the advertisee offer, and the user context information

However, Schuster discloses

the one or more offer exchange server computers obtain, and cause to be stored in the offer exchange database, the advertiser offer, the advertisee offer, and the user context information

(see claim 1 Schuster response and FIG 2. (ad database)).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the one or more offer exchange server computers obtain, and cause to be stored in the offer exchange database, the advertiser offer, the advertise offer, and the user context information to the system of Kida et al.. One would have been motivated to do this in order to store the matches made for follow up.

As per Claim 43:

Kida et al. does not explicitly disclose

the match between the advertiser offer, the advertise offer, and the user context is such that less than all conditions of the offers are met

However, Schuster discloses

the match between the advertiser offer, the advertise offer, and the user context is such that less than all conditions of the offers are met

(see user matching (tendencies), advertiser matching (anticipation), and website matching (political or tax website) via Schuster FIG. 1 (websites) and paragraph [0025] ...Depending on the criteria desired by the advertiser computer system 10, an internal weighting algorithm may be used to determine which returned search results best match the tendencies of the user as anticipated by the advertiser computer system 10. The advertiser computer system 10 then selects only those search results receiving a criterion score above some predetermined threshold at step 135. It is to be understood

that different audio advertisements may be selected for different users based on different criteria scores. For example, if a user links to an advertiser's website pertaining to politics from a website pertaining to news, then the user may receive an audio advertisement pertaining to breaking news about politics. If a different user links to this same advertiser's website from a website pertaining to taxes, then that user might receive an audio advertisement pertaining to a political candidate who advocates a cut in taxes).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the match between the advertiser offer, the advertise offer, and the user context is such that less than all conditions of the offers are met to the system of Kida et al.. One would have been motivated to do this in order to ensure all parties are adequately served.

**5. Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 20040230676), in view of Patel, Dorab et al. (Patel) (US 20040103024), and further in view of Calistri-Yeh et al. (US 20040199546).**

As per Claim 42:

Kida et. al. does not explicitly disclose at least one of the first and second sets of one or more context conditions comprises a semantic distance of the at least one search term to the search phrase.

However, Calistri-Yeh discloses

at least one of the first and second sets of one or more context conditions comprises a semantic distance of the at least one search term to the search phrase (see context and semantic distance teaching via Calistri-Yeh paragraph Further, if words and phrases are both examined with respect to the categories, then the dictionary will contain both words and phrases. If two (trainable semantic vector) TSVs are substantially close as measured by their distance, then the corresponding words or phrases are similar within the context of the subject area. Again, distance is preferably measured by Euclidean distance in multi dimensional space).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add at least one of the first and second sets of one or more context conditions comprises a semantic distance of the at least one search term to the search phrase to the system of Kida et. al.. One would have been motivated to do this in order to poll for similarities.

**6. Claims 3, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 20040230676), in view of Patel, Dorab et al. (Patel) (US 20040103024), and further in view of Tenorio (US 20020174089).**

As per Claim 3:

Kida et. al. does not explicitly disclose at least one of the first and second sets of one or more context conditions comprises at least one search term, the user context information comprises a search phrase submitted by the user in a query, and wherein the at least one web page comprises a search results page.

However Tenorio discloses

at least one of the first and second sets of one or more context conditions comprises at least one search term, the user context information comprises a search phrase submitted by the user in a query, and wherein the at least one web page comprises a search results page

(see Tenorio paragraph [0038] A search interface 45, or any other appropriate component of GCD server 40, may facilitate such a request by searching or requesting searches of seller databases 32 identified by one or more pointers associated with felt-tip pens class 60b, as described above. Search interface 45 may provide buyer 20 a search form in which to enter one or more search criteria. The types of search criteria that may be used may be identified in the search form or buyer 20 may be allowed to perform a general search of databases 32 for certain terms. See search results via Tenorio paragraph [0042] Search results (meaning the responses to the queries of databases 32) may be presented to buyer 20 in any appropriate manner. In one embodiment, GCD interface 43 may sort search results before presenting them to buyer 20 to assist identification of a suitable seller 30 by buyer 20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add at least one of the first and second sets of one or more context conditions comprises at least one search term, the user context information comprises a search phrase submitted by the user in a query, and wherein the at least one web page comprises a search results page to the system of Kida et al..

One would have been motivated to do this in order to allow for user friendly searches.

As per Claim 16:

Kida et. al. does not explicitly disclose the offers each comprise a search term-related dimension.

However Tenorio discloses the offers each comprise a search term-related dimension (see Tenorio paragraph [0038] A search interface 45, or any other appropriate component of GCD server 40, may facilitate such a request by searching or requesting searches of seller databases 32 identified by one or more pointers associated with felt-tip pens class 60b, as described above).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the offers each comprise a search term-related dimension to the system of Kida et al.. One would have been motivated to do this in order to allow for user friendly searches.

**7. Claims 17-20, 23, 28, 32, 34, 35, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kida et al. (US 20040230676), in view of Patel, Dorab et al. (Patel) (US 20040103024), and further in view of Llach (US 20040186776).**

As per Claim 17:

Kida et. al. does not explicitly disclose the offers each comprise a user location-related dimension.

However, Llach discloses the offers each comprise a user location-related dimension (see paragraph [0026 via The targeted advertisement 110 is selected or generated based on the user's search terms (here, the word "truck") and other information such as the user's geographic location (e.g., the physical location of the user's computer), 0097]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the offers each comprise a user location-related dimension to the system of Kida et. al.. One would have been motivated to do this in order to gage interest of customers by location.

As per Claim 18:

Kida et. al. does not explicitly disclose the user location related dimension is a real-time or almost real time physical location of the user.

However, Llach discloses the user location related dimension is a real-time or almost real time physical location of the user (see paragraph [0026, 0083]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the user location related dimension is a real-

time or almost real time physical location of the user to the system of Kida et. al.. One would have been motivated to do this in order to gage interest of customers by location in real-time.

As per Claim 19:

Kida et. al. does not explicitly disclose the dimensions include at least one of user context-related dimensions, media, content, demographics, and price.

However, Llach discloses the dimensions include at least one of user context-related dimensions, media, content, demographics, and price (paragraphs [0014, 0015]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the dimensions include at least one of user context-related dimensions, media, content, demographics, and price to the system of Kida et. al.. One would have been motivated to do this in order to determine the effectiveness of campaigns.

As per Claim 20:

Kida et. al. does not explicitly disclose the dimensions include at least one of price per click, price per impression, and a price per user acquisition.

However, Llach discloses the dimensions include at least one of price per click, price per impression, and a price per user acquisition (see paragraph [0001, 0021, 0077]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the dimensions include at least one of price



per click, price per impression, and a price per user acquisition to the system of Kida et. al.. One would have been motivated to do this in order to determine the effectiveness of campaigns.

As per Claim 23:

Kida et. al. does not explicitly disclose the offer exchange database comprises aggregated information useful in advertisement targeting and obtained from a plurality of affiliates; the one or more offer exchange servers utilize the aggregated information to determine pre-defined offers considered well suited to particular categories of at least one of advertisers and advertisees;

and the one or more offer exchange servers propose pre-defined offers to at least one of advertisers and advertisees of appropriate categories for selection.

However, Llach discloses the offer exchange database comprises aggregated information useful in advertisement targeting and obtained from a plurality of affiliates; the one or more offer exchange servers utilize the aggregated information to determine pre-defined offers considered well suited to particular categories of at least one of advertisers and advertisees;

and the one or more offer exchange servers propose pre-defined offers to at least one of advertisers and advertisees of appropriate categories for selection (see paragraph [0101]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the offer exchange database comprises aggregated information useful in advertisement targeting and obtained from a plurality

of affiliates; the one or more offer exchange servers utilize the aggregated information to determine pre-defined offers considered well suited to particular categories of at least one of advertisers and advertisees;

and the one or more offer exchange servers propose pre-defined offers to at least one of advertisers and advertisees of appropriate categories for selection to the system of Kida et. al.. One would have been motivated to do this in order to develop offers based on previous performance and specific categories.

As per Claim 28:

Kida et. al. does not explicitly disclose using information stored in the database to determine dimensional ranges of values of dimensions of a pre-defined offer such that the pre-defined offer specifies at least one user context to which advertisements of a particular category are well-targeted.

However Llach discloses using information stored in the database to determine dimensional ranges of values of dimensions of a pre-defined offer such that the pre-defined offer specifies at least one user context to which advertisements of a particular category are well-targeted (see paragraph [0034] The Advertiser Campaign Manager 335 (1) generates campaigns, (2) edits campaigns, (3) stops campaigns, either automatically or manually, (4) automatically generates messages based on product or item data, and (5) outputs a set of message deals for content sites to accept or reject. As described in more detail below, a message deal consists of a message (e.g., text, impression, sound, and voice), a target (e.g., content, category, channel, individuals, and devices) for the message, an amount to pay for delivering a message, and

constraints to the message. The amount to pay for delivering a message can be in dollars per message delivered, dollars per message acted on, dollars per action attributed to the message, and any combination of these. Constraints to the message include, but are not limited to, date ranges, time ranges).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add using information stored in the database to determine dimensional ranges of values of dimensions of a pre-defined offer such that the pre-defined offer specifies at least one user context to which advertisements of a particular category are well-targeted to the system of Kida et. al.. One would have been motivated to do this in order to manage offers in terms of date and time ranges.

As per Claim 32:

Kida et. al. does not explicitly disclose matching, comparing stored offers with user context information as such user context information is obtained.

However Llach discloses matching, comparing stored offers with user context information as such user context information is obtained (see paragraph [0022] The best results from advertising come from highly targeted, in-context advertising that presents the most relevant offer when a prospective buyer is looking or searching for information. In accordance with the present invention, highly relevant, in-context advertising is implemented using (1) content classification that is highly granular and (2) a large selection of advertisements equally well classified and relevant. The classification scheme for content is configured to handle at least 10,000 categories and

millions of relevant offers and advertisements. The system automatically buys and sells billions of highly targeted impressions using the classification scheme. The system has actual liquidity (such as matching buy and sell offers) because it supports a variety of pricing schemes including, but not limited to, paying for impressions).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add matching, comparing stored offers with user context information as such user context information is obtained to the system of Kida et. al.. One would have been motivated to do this in order to manage offers effectively.

As per Claim 34:

Kida et. al. does not explicitly disclose the advertisement comprises at least one of text, imagery, and sound to be presented through the computerized device of the computer user.

However, Llach discloses the advertisement comprises at least one of text, imagery, and sound to be presented through the computerized device of the computer user (see paragraph [0034]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the advertisement comprises at least one of text, imagery, and sound to be presented through the computerized device of the computer user to the system of Kida et. al.. One would have been motivated to do this in order to develop a wide ranged of ad types.

As per Claim 35:

Kida et. al. does not explicitly disclose the advertisement facilitates sale of a product, a service, or content.

However, Llach discloses the advertisement comprises at least one of text, imagery, and sound to be presented through the computerized device of the computer user (see paragraph [0034]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the advertisement comprises at least one of text, imagery, and sound to be presented through the computerized device of the computer user to the system of Kida et. al.. One would have been motivated to do this in order to develop a wide ranged of ad types.

As per Claim 41:

Kida et. al. does not explicitly disclose the network comprises a wireless network, and comprising wireless transmission of the advertisement to the user.

However, Llach discloses the network comprises a wireless network, and comprising wireless transmission of the advertisement to the user (see paragraph [0029]).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to add the network comprises a wireless network, and comprising wireless transmission of the advertisement to the user to the system of Kida et. al.. One would have been motivated to do this in order to support mobile devices.

### **Response to Arguments**

8. The applicant's arguments are moot in light of the new grounds of rejection above.

### **Conclusion**

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney M. Henry whose telephone number is 571-270-5102. The examiner can normally be reached on Tuesday through Friday from 7:30am to 7:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Namrata Boveja can be reached on 571-272-8105. The fax phone number

for the organization where this application or proceeding is assigned is 571-270-6102.

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/RMH/

/Arthur Duran/  
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